

2

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
I.A.NO.            OF 2015

IN  
WRIT PETITION (CIVIL) NO.494/2012

Justice K.S. Puttaswamy (Retd.)            Petitioner

Vs.

UOI & Ors.

Respondent

IN THE MATTER OF :

Central Board of Direct Taxes.

Applicant/Respondent.

**APPLICATION FOR  
CLARIFICATION/MODIFICATION OF INTERIM  
ORDER DATED 11.8.2015**

**PAPER BOOK**

**(Kindly see inside. )**

Advocate for the Applicant/Respondent: Mrs.Anil Katiyar

## Index

1.Application for Clarification/  
Modification of Interim Order  
Dated 11.8.2015 with  
Affidavit.

1-14

2.Annexure R-1

True copy of order dated 11.8.2015  
Passed by this Hon'ble Court in  
Writ Petition No. 494 of 2012.

15-29

3.Annexure R-2

True copy of letter dated 20.8.2015

30-35

4.Annexure R-3

True copy of order dated 23.9.2013  
Passed by this Hon'ble Court

36-37

5.Annexure R-4

True copy of order dated 16.3.2015  
Passed by this Hon'ble Court.

38-42

6.Annexure R-5

True copy of order dated 24.3.2014  
Passed by this Hon'ble Court.

43-44

IN THE SUPREME COURT OF INDIA  
(CIVIL ORIGINAL JURISDICTION)

I.A. No.        /2015

IN

WRIT PETITION (CIVIL) No.494/2012

IN THE MATTER OF:

JUSTICE K.S.PUTTASWAMY(RETD.).....PETITIONER

VERSUS

UNION OF INDIA & ORS.                        ..... RESPONDENTS

AND

IN THE MATTER OF:

CENTRAL BOARD OF DIRECT TAXES,

DEPARTMENT OF REVENUE,

NORTH BLOCK,

NEW DELHI                        .....APPLICANT/RESPONDENT

APPLICATION FOR CLARIFICATION/MODIFICATION OF  
INTERIM ORDER DATED 11.08.2015

TO

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUDGES OF THE

HON'BLE SUPREME COURT OF INDIA

The Petition of the

Petitioner above named:

MOST RESPECTFULLY SHOWETH :-

1. That the above mentioned petition filed by the  
petitioner.        abovementioned        challenging        the

constitutionality and legality of the "Aadhaar Card Scheme" on various counts. Wherein after hearing the parties at length this Hon'ble Court on 11.08.2015 referred the matter to be placed before the Hon'ble Chief Justice Of India for appropriate orders.

2. That at the time of passing said order this Hon'ble Court passed following interim direction that till the matter is finally decided by the larger Bench if the Union Of India or the UIDAI proceed in the following manner:

1. The Union Of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card.
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen.
3. The Unique Identification Number or the Aadhar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as

kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme.

4. The information about an individual obtained by the Unique Identification Authority Of India while issuing an Aadhar card shall not be used for any other purpose save as above, except as may be directed by the Court for purpose of criminal investigation.

A copy of the said order dated 11.08.2015 passed by this Hon'ble Court in Writ Petition (C) No.494 of 2012 is enclosed herewith as ANNEXURE -R/1 at Pg. 15-29.

3. That, on 20<sup>th</sup> August 2015, applicant herein has received a letter dated 17<sup>th</sup> August 2015 from one K.J.John & Co. Advocate Supreme Court & High Court intimating them that in view of the above directions passed by this Hon'ble Court to suspend/cease activity related to collection/authentication/sending/using the information obtained under the Aadhaar/UIDAI Scheme and accordingly make suitable modification/alterations to database software, if any. A copy of the said letter along with its annexures is enclosed herewith as ANNEXURE R/2 at Pg. 30-35.

4

4. It is submitted that the present application for clarification/Modification has been filed by the applicant as presently this Aadhaar Number/ card is being used by the Income Tax Department for following purposes :

(a) Aadhaar number is required to be indicated by persons having Aadhaar for filing Return of Income. Those not having Aadhaar can also file the Return of Income without Aadhaar.

(b) Aadhaar is one of the modes for e-verification of e-filed return. Persons not having Aadhaar have been given a range of other options for e-verification viz. through net banking etc. Besides, manual acknowledgement by filing ITR-V is also available as a valid mode of verification.

(c) Aadhaar number is to be indicated by persons having Aadhaar for filing PAN application.

5. It is submitted that the providing of Aadhaar Card Number for this purpose is, however, not mandatory. However, till the date of impugned interim direction Aadhaar Card was accepted as one of the approved documents for Proof of Identity, Proof of Address and Proof of Date of Birth for making PAN application.

Besides Aadhaar, a person had the option to use a number of other documents which were also accepted as proof of identity, address and date of birth.

6. It is further submitted that the Aadhaar number so obtained by the Department on voluntary basis was being seeded in PAN database for de-duplication of PAN. The purpose of this is to ensure uniqueness of PAN in order to avoid issue of two PANs to same person or same PAN to more than one person.

7. In addition to the above, the Department was also considering the use of Aadhaar for the following purposes:

(a) Use of Aadhaar data for digital signature (e-signature) in PAN application as provided in Information Technology Act.

(b) Use of Aadhaar data for e-KYC (Know Your Customer) and e-signature in PAN application.

(c) Use of Aadhaar number for ascertaining transactions where PAN was not available.

8. It is humbly submitted that in view of the facts stated herein above the Aadhaar Number/ Card is the most

6

widely accepted mean of identity document with the widest coverage amongst the residents/citizens.

9. That the clause (3) and (4) of para 2 mentioned herein above, the impugned order dated 11.08.2015 prohibits the use of Aadhaar for any purpose apart from distribution of food -grains and kerosene in the PDS Scheme as well as LPG distribution, crores of residents of India are denied the use of a basic form of identity for all other purposes, even if they choose to do so voluntarily. Given that the Aadhaar Number/Card is the most widely held identity document, this causes serious hardship to such residents for many of whom it is the only identity proof that they possess.

10. It is humbly submitted that considering the identification proof i.e. Aadhaar Identity Number/ Card linked with the benefits that accrue to the residents/citizens it is necessary that the interim order dated 11.08.2015 restricting the use of Aadhaar be clarified/modified, strictly on the basis of resident/citizen consent.

11. This Hon'ble Court has always underlined the principle of consent and voluntariness respecting



7

individual choice and autonomy while balancing the interest of the petitioners as well as those teeming crores of citizens and residents of India who have voluntarily sought to Aadhaar Number/ Card for easy and convenient availability of a host of social services and benefits, discussed earlier. There is no reason of law or convenience that warrants a departure from this position. This is evident from the interim orders passed from time to time.

12. That earlier this Hon'ble Court in its order dated 23.09.2013 was pleased to direct as follows:

"In the meanwhile, no person should suffer for not getting the Aadhaar card in spite of the fact that some authority had issued a circular making it mandatory and when any person applies or get the Aadhaar Card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

A copy of the said order dated 23.09.2013 passed by this Hon'ble Court is enclosed herewith as ANNEXURE R/3 at Pg. 36-37.

8

13. Similarly this Hon'ble Court while reiterating the earlier directions passed the order on 16.03.2015 as follows:

".....Since Union Of India is represented by Learned Solicitor General and all the States are represented through their respective counsel, we expect that both the Union Of India and States and all functionaries should adhere to the order passed by this Court on 23<sup>rd</sup> September, 2013."

A copy of the said order dated 16.03.2015 is enclosed herewith as ANNEXURE R/4 at Pg. 38-42.

14. This Hon'ble Court in a Special Leave Petition filed by the UIDAI against the High Court Of Bombay at Panaji in its order dated 24.03.2014 in SLP(Crl.) 2524 of 2014 reiterated that the use of Aadhaar shall be purely consent based and not compulsory. The operative portion of the order dated 24.03.2014 is as follows:

"In the meanwhile, the present petitioner is restrained from transferring any biometric information of any person who has been allotted the Aadhaar number to any other agency without his consent in writing.

9

More so, no person shall be deprived of any service for want of Aadhaar Number in case he/she is otherwise eligible/entitled. All the authorities are directed to modify their forms/circulars/likes so as to not compulsorily require the Aadhaar number in order to meet the requirement of the interim order passed by this Court forthwith."

A copy of the said order dated 24.03.2014 is enclosed herewith as ANNEXURE R/5 at Pg. 43-44.

15. That while passing the interim order dated 11.08.2015, inspite of the petitioner's plea this Hon'ble Court did not stop the process of enrolment of residents in to Aadhaar for social welfare schemes and services as well. This proposition simply involves giving an individual the option of using an Aadhaar-linked services in order to authenticate his/her identity. The identity of the individual having been duly authenticated the service provider can proceed to provide the said services. Thus in relevant part, giving an individual such an option is analogous to permitting an individual to access and use his/her own information as he/she chooses.

16. Further there is no apprehension of breach of privacy if this were to be permitted. In the light of the submission of Ld. Attorney General for India that no biometric information of the Aadhaar card holder is shared, the Court also recorded in its order that:

“The Learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued.”

17. On this basis, it is humbly submitted that there is no likelihood of any injury, irreparable or otherwise, to be caused to the public if this Hon'ble Court allows the use of Aadhaar Number/Card on a voluntary basis for any Government services. On the contrary, the balance of convenience lies in enabling the use of Aadhaar Number/card for crores of residents/citizens, to exercise their rights and receive their benefits and this will save the time in process of verification, resulted in saving of time and public money.

11

18. That the facts stated herein above are true and correct and based on the Official records. Apart from that considering the larger interest of residents/citizens it has been filed.

19. PRAYER:

In the light of the legal and factual submissions made herein above it is humbly prayed that this Hon'ble Court will be pleased to:

- a) Pass an order to clarify/modify its interim direction order dated 11.08.2015 in Writ Petition (c) No.494/2012 thereby allowing the Aadhaar Number/card to be used not only for the PDS Scheme and LPG Distribution Scheme but also for any Government services, verification and validation of identity of a person for the purpose of implementation of Direct Tax Laws by the Central Board of Direct Taxes, Government of India based on residents' consent to enable those who are enrolled/enrolling, as outlined above, and
- b) pass such other and further orders as this Hon'ble Court deem fit and proper in the interest of justice and in the facts and circumstances of present case.

12

Drawn By;

Filed By:

Sadhana Sandhu

ANIL KATIYAR

Advocate

(Advocate for Petitioners)

Filed On;

New Delhi

13

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

I.A. No. /2015

IN

WRIT PETITION (CIVIL) No.494/2012

IN THE MATTER OF:

JUSTICE K.S.PUTTASWAMY(RETD.).....PETITIONER

VERSUS

UNION OF INDIA & ORS. .... RESPONDENTS

AND

IN THE MATTER OF:

CENTRAL BOARD OF DIRECT TAXES

AFFIDAVIT

I, Arju Garodia, Under Secretary to the Government of  
India, Central Board of Direct Taxes,  
New Delhi, presently at New Delhi do hereby solemnly  
affirm and state as under:

1. That in my abovementioned official capacity, I am conversant with facts of the case and competent as well as duly authorized to file present affidavit.

2. That I have read and understood the contents of the accompanying Application for Clarification/Modification Of Interim Order dated 11.08.2015 and it has been drafted under my instructions, the contents stated therein are true and correct and based on official record.

3. That the Annexures are the true copies of their respective originals.

4. I say that the facts stated therein are true and correct to my knowledge and belief.

DEPONENT

**VERIFICATION: -**

Verified at New Delhi on this        **day** of October, 2015, that the contents stated herein above, in above affidavit are true and correct as per my knowledge and belief and based on the official records made available to me and no part thereof, is incorrect or false and nothing has been concealed therefrom .

DEPONENT



Annexure-R/1<sup>2</sup>

REPORTABLE  
IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another ... Petitioners

Versus

Union of India & Others ... Respondents

WITH

TRANSFERRED CASE (CIVIL) NO.151 OF 2013

TRANSFERRED CASE (CIVIL) NO.152 OF 2013

WRIT PETITION (CIVIL) NO.829 OF 2013

WRIT PETITION (CIVIL) NO.833 OF 2013

WRIT PETITION (CIVIL) NO.932 OF 2013

TRANSFER PETITION (CIVIL) NO.312 OF 2014

TRANSFER PETITION (CIVIL) NO.313 OF 2014

WRIT PETITION (CIVIL) NO.37 OF 2015

WRIT PETITION (CIVIL) NO.220 OF 2015

TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

ORDER

1. In this batch of matters, a scheme propounded by the Government of India popularly known as "Aadhaar Card Scheme" is under attack on various counts. For the purpose of this order, it is

Signature invalid  
Digitally signed by  
Deepak Kumar  
Date: 2015.11.10  
17:24:10  
Reason:

necessary for us to go into the details of the nature of the scheme

and the various counts on which the scheme is attacked. Suffice it to say that under the said scheme the Government of India is collecting and compiling both the demographic and biometric data of the residents of this country to be used for various purposes, the details of which are not relevant at present.

2. One of the grounds of attack on the scheme is that the very collection of such biometric data is violative of the "right to privacy".

Some of the petitioners assert that the right to privacy is implied under Article 21 of the Constitution of India while other petitioners assert that such a right emanates not only from Article 21 but also from various other articles embodying the fundamental rights guaranteed under Part-III of the Constitution of India.

3. When the matter was taken up for hearing, Shri Mukul Rohatgi, learned Attorney General made a submission that in view of the judgments of this Court in *M.P. Sharma & Others v. Satish Chandra & Others*, AIR 1954 SC 300 and *Kharak Singh v. State of U.P. & Others*, AIR 1963 SC 1295, (decided by Eight and Six Judges respectively) the legal position regarding the existence of the fundamental right to privacy is doubtful. Further, the learned Attorney General also submitted that in a catena of decisions of this Court rendered subsequently, this Court referred to "right to privacy", contrary to the judgments in the abovementioned cases which resulted

in a jurisprudentially impermissible divergence of judicial opinions.

"A power of search and seizure is in any system of jurisprudence an overriding power of the State for the protection of social security and that power is necessarily regulated by law. When the Constitution makers have thought fit not to subject such regulation to constitutional limitations by recognition of a fundamental right to privacy, analogous to the American Fourth Amendment, we have no justification to import it, into a totally different fundamental right, by some process of strained construction. [See: *M.P. Singh & Others v. Satish Chandra & Others*, AIR 1954 SC 300, page 306 para 18]

"... Nor do we consider that Art. 21 has any relevance in the context as was sought to be suggested by learned counsel for the petitioner. As already pointed out, the right of privacy is not a guaranteed right under our Constitution and therefore the attempt to ascertain the movement of an individual which is merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by Part III." [See: *Kharak Singh v. State of U.P. & Others*, AIR 1963 SC 1295, page 1303 para 20]

[Emphasis supplied]

4. Learned Attorney General submitted that such impermissible divergence of opinion commenced with the judgment of this Court in *Gobind v. State of M.P. & Another*, (1975) 2 SCC 148, which formed the basis for the subsequent decision of this Court wherein the "right to privacy" is asserted or at least referred to. The most important of such cases are *R. Rajagopal & Another v. State of Tamil Nadu & Others*, (1994) 6 SCC 632 (popularly known as *Auto Shanker's case*) and *People's Union for Civil Liberties (PUCL) v. Union of India & Another*, (1997) 1 SCC 301.
5. All the judgments referred to above were rendered by smaller Benches of two or three Judges.
6. Shri K.K. Venugopal, learned senior counsel appearing for one of

8. On behalf of the petitioners Shri Gopal Subramaniam and Shri Shyam Divan, learned senior counsel very vehemently opposed the suggestion that this batch of matters is required to be heard by a larger bench. According to them:

(i) The conclusions recorded by this Court in *R. Rajagopal* and *PUCL* are legally tenable for the reason that the observations made in *M.P. Sharma* regarding the absence of right to privacy under our Constitution are not part of ratio decidendi of that case and, therefore, do not bind the subsequent smaller Benches.

(ii) Coming to the case of *Kharak Singh*, majority in *Kharak Singh* did hold that the right of a person not to be disturbed at his residence by the State and its officers is recognized to be a part of a fundamental right guaranteed under Article 21 which is nothing but an aspect of privacy. The observation in para 20 of the majority judgment at best can be construed only to mean that there is no fundamental right of privacy against the State's authority to keep surveillance on the activities of a person. Even such a conclusion cannot be good law any more in view of the express declaration made by a seven-Judge bench decision of this Court in *Maneka Gandhi v. Union of India & Another*, (1978) 1 SCC 248<sup>3</sup>.

necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion

<sup>3</sup> Para 5. .. It was in *Kharak Singh v. State of U.P.*, AIR 1963 SC 1295 that the question as to the proper scope and meaning of the expression 'personal liberty' came up pointedly for consideration for the first time before this Court. The

(iii) They further argued that both *M.P. Sharma (supra)* and *Kharak Singh (supra)* came to be decided on an interpretation of the Constitution based on the principles expounded in *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27. Such principles propounded by *A.K. Gopalan* themselves came to be declared wrong by a larger Bench of this Court in *Rustom Cavasjee Cooper v. Union of India*, (1970) 1 SCC 248. Therefore, there is no need for the instant batch of matters to be heard by a larger Bench.

9. It is true that *Gobind (supra)* did not make a clear declaration that there is a right to privacy flowing from any of the fundamental rights guaranteed under Part-III of the Constitution of India, but observed that "Therefore, even assuming that the right to personal liberty, the right to move freely throughout the territory of India and the freedom of speech create an independent right of privacy as an emanation from them which one can characterize as a fundamental right, we do not think that the right is absolute".

This Court proceeded to decide the case on such basis.

10. However, the subsequent decisions in *R. Rajagopal (supra)* and

majority of the Judges took the view "that 'personal liberty' is used in the article as a compendious term to include within itself all the varieties of rights which go to make up the 'personal liberties' of man other than those dealt with in the several clauses of Article 19(1). In other words, while Article 19(1) deals with particular species or attributes, of that freedom, 'personal liberty' in Article 21 takes in and comprises the residue". The minority judges, however, disagreed with this view taken by the majority and explained their position in the following words: "No doubt the expression 'personal liberty' is a comprehensive one and the right to move freely is an attribute of personal liberty. It is said that the freedom to move freely is carved out of personal liberty and, therefore, the expression 'personal liberty' in Article 21 excludes that attribute. In our view, this is not a correct approach. Both are independent fundamental rights, though there is overlapping. There is no question of one being carved out of another. The fundamental right of life and personal liberty has many attributes and some of them are found in Article 19. If a person's fundamental right under Article 21 is infringed, the State can rely upon a law to sustain the action, but that cannot be a complete answer unless the said law satisfies the test laid down in Article 19(2) so far as the attributes covered by Article 19(1) are concerned". There can be no doubt that in view of the decision of this Court in *R. C. Cooper v. Union of India*, (1970) 2 SCC 298 the minority view must be regarded as correct and the majority view must be held to have been overruled.

*PUCL (supra)*, the Benches were more categorical in asserting the existence of "right to privacy". While *R. Rajagopal's case*<sup>4</sup> held that the "right to privacy" is implicit under Article 21 of the Constitution, *PUCL's case* held that the "right to privacy" insofar as it pertains to speech is part of fundamental rights under Articles 19(1)(a) and 21 of the Constitution<sup>5</sup>.

11. Elaborate submissions are made at the bar by the learned counsel for the petitioners to demonstrate that world over in all the countries where Anglo-Saxon jurisprudence is followed, 'privacy' is recognised as an important aspect of the liberty of human beings. It is further submitted that it is too late in the day for the Union of India to argue that the Constitution of India does not recognise privacy as an aspect of the liberty under Article 21 of the Constitution of India. At least to the extent that the right of a person to be secure in his house and not to be disturbed unreasonably by the State or its officers is

<sup>4</sup> Para 9. "Right to privacy is not enumerated as a fundamental right in our Constitution but has been inferred from Article 21."

<sup>5</sup> Para 18. "The right to privacy — by itself — has not been identified under the Constitution. As a concept it may be too broad and moralistic to define it judicially. Whether right to privacy can be claimed or has been infringed in a given case would depend on the facts of the said case. But the right to hold a telephone conversation in the privacy of one's home or office without interference can certainly be claimed as "right to privacy". Conversations on the telephone are often of an intimate and confidential character. Telephone conversation is a part of modern man's life. It is considered so important that more and more people are carrying mobile telephone instruments in their pockets. Telephone conversation is an important facet of a man's private life. Right to privacy would certainly include telephone conversation in the privacy of one's home or office. Telephone-tapping would, thus, infract Article 21 of the Constitution of India unless it is permitted under the procedure established by law."

19. Right to freedom of speech and expression is guaranteed under Article 19(1)(a) of the Constitution. This freedom means the right to express one's convictions and opinions freely by word of mouth, writing, printing, picture, or in any other manner. When a person is talking on telephone, he is exercising his right to freedom of speech and expression. Telephone-tapping unless it comes within the grounds of restrictions under Article 19(2) would infract Article 19(1)(a) of the Constitution."

expressly recognized and protected in *Kharak Singh (supra)* though the majority did not describe that aspect of the liberty as a right of privacy, it is nothing but the right of privacy.

12. We are of the opinion that the cases on hand raise far reaching questions of importance involving interpretation of the Constitution. What is at stake is the amplitude of the fundamental rights including that precious and inalienable right under Article 21. If the observations made in *M.P. Sharma (supra)* and *Kharak Singh (supra)* are to be read literally and accepted as the law of this country, the fundamental rights guaranteed under the Constitution of India and more particularly right to liberty under Article 21 would be denuded of vigour and vitality. At the same time, we are also of the opinion that the institutional integrity and judicial discipline require that pronouncement made by larger Benches of this Court cannot be ignored by the smaller Benches without appropriately explaining the reasons for not following the pronouncements made by such larger Benches. With due respect to all the learned Judges who rendered the subsequent judgments - where right to privacy is asserted or referred to their Lordships concern for the liberty of human beings, we are of the humble opinion that there appears to be certain amount of apparent unresolved contradiction in the law declared by this Court.

13. Therefore, in our opinion to give a quietus to the kind of

controversy raised in this batch of cases once for all, it is better that the ratio decidendi of *M.P. Sharma (supra)* and *Kharak Singh (supra)* is scrutinized and the jurisprudential correctness of the subsequent decisions of this Court where the right to privacy is either asserted or referred be examined and authoritatively decided by a Bench of appropriate strength.

14. We, therefore, direct the Registry to place these matters before the Hon'ble the Chief Justice of India for appropriate orders.

.....J.  
(J. Chelameswar)

.....J.  
(S.A. Bobde)

.....J.  
(C. Nagappan)

New Delhi  
August 11, 2015



REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) &amp; Another ...Petitioners

Versus

Union of India &amp; Others

... Respondents

WITHTRANSFERRED CASE (CIVIL) NO.151 OF 2013TRANSFERRED CASE (CIVIL) NO.152 OF 2013WRIT PETITION (CIVIL) NO.829 OF 2013WRIT PETITION (CIVIL) NO.833 OF 2013WRIT PETITION (CIVIL) NO.932 OF 2013TRANSFER PETITION (CIVIL) NO.312 OF 2014TRANSFER PETITION (CIVIL) NO.313 OF 2014WRIT PETITION (CIVIL) NO.37 OF 2015WRIT PETITION (CIVIL) NO.220 OF 2015TRANSFER PETITION (CIVIL) NO.921 OF 2015CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012

ORDER

Having regard to importance of the matter, it is desirable  
that the matter be heard at the earliest.

.....J.  
(J. Chelameswar)

.....J.  
(S.A. Bobde)

.....J.  
(C. Nagappan)

New Delhi  
August 11, 2015

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) &amp; Another ... Petitioners

Versus

Union of India &amp; Others ... Respondents

WITHTRANSFERRED CASE (CIVIL) NO.151 OF 2013TRANSFERRED CASE (CIVIL) NO.152 OF 2013WRIT PETITION (CIVIL) NO.829 OF 2013WRIT PETITION (CIVIL) NO.833 OF 2013WRIT PETITION (CIVIL) NO.932 OF 2013TRANSFER PETITION (CIVIL) NO.312 OF 2014TRANSFER PETITION (CIVIL) NO.313 OF 2014WRIT PETITION (CIVIL) NO.37 OF 2015WRIT PETITION (CIVIL) NO.220 OF 2015TRANSFER PETITION (CIVIL) NO.921 OF 2015CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WP(C) 494/2012CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WP(C) 494/2012INTERIM ORDER

After the matter was referred for decision by a larger Bench, the learned counsel for the petitioners prayed for further interim orders. The last interim order in force is the order of this Court dated 23.9.2013 which reads as follows:-

“ ....

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23.9.2013 granted an injunction restraining the Unique Identification Authority of India from going ahead and obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to

about 90% of the population. Also that a large amount of money has been spent by the Union Government on this project for issuing Aadhaar cards and that in the circumstances, none of the well-known considerations for grant of injunction are in favour of the petitioners.

The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued. It was further contended on behalf of the petitioners that there still is breach of privacy. This is a matter which need not be gone into further at this stage.

The learned Attorney General has further submitted that the Aadhaar card is of great benefit since it ensures an effective implementation of several social benefit schemes of the Government like MGNREGA, the distribution of food, ration and kerosene through PDS system and grant of subsidies in the distribution of LPG. It was, therefore, submitted that restraining the respondents from issuing further Aadhaar cards or fully utilising the existing Aadhaar cards for the social schemes of the Government should be allowed.

The learned Attorney General further stated that the

respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than a social benefit schemes.

Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner:-

1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;
4. The information about an individual obtained by the Unique

Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Ordered accordingly.

.....J.  
(J. Chelameswar)

.....J.  
(S.A. Bobde)

.....J.  
(C. Nagappan)

New Delhi  
August 11, 2015

6 True copy

Annexure R/2

**K.J. JOHN & CO.**

**Advocates, Supreme Court & High Court**

K.J. John	Office:	SF 039, 052 & 055,	Tel: (0120) 4272738
Pratap Venugopal		Fortune Arcade	4272739
Surekha Raman (Ms.)		Plot 69, 'K' Block, Sector-18,	4272740
Dileep P.		Noida- 201301	Fax: (0120) 4352830
Purushottam Kumar Jha			(Telefax): (011) 23070428
Anuj Sarma	Chambers:	428, M.C. Setalvad Lawyers'	E-mail: mail@kjjohnco.in
Gaurav Nair		Chambers,	<a href="mailto:kjjohnco@airtelmail.in">kjjohnco@airtelmail.in</a>
Debarshi Bhuyan		Bhagwan Dass Road,	
Niharika (Ms.)		New Delhi - 110001	

Our Ref: SC-3714/846/2015

**BY SPEED POST**

17<sup>th</sup> August, 2015

1. Ms. Bina Prasad  
Joint Secretary (C&PG)  
Ministry of Home Affairs  
Email: [jscpg-mha@nic.in](mailto:jscpg-mha@nic.in)
2. Shri S. Selvakumar  
Joint Secretary (ABC)  
Ministry of Finance  
Department of Economic Affairs  
Room No. 39-B  
New Delhi – 110001 (India)  
Telephone: 23093881  
Intercom: 5039  
Fax: 23092024  
Email: [isabc-dea@nic.in](mailto:isabc-dea@nic.in)
3. Shri Udai Singh Kumawat  
JS (Revenue)  
Ministry of Finance  
Department of Revenue  
Room No. 46, North Block  
New Delhi – 110001  
Telephone No: 011- 23094595  
Email: [jsrev@nic.in](mailto:jsrev@nic.in)
4. Shri Ashok Kumar Singh  
Director (IT)  
Ministry of Finance  
Department of Financial Services  
Jeevan Deep Building  
Parliament Street



New Delhi – 110001  
Telephone No: 011- 23346874  
Email: wim-dfs@nic.in

Madam/Sir,

Re: Order dated 11.08.2015 passed by the Hon'ble Supreme Court of India in the 'Aadhaar' matter, i.e. Justice (retd.) K.S. Puttuswamy v. UOI & Ors., WP (C) No. 494/2012 and related Petitions.

We are addressing this communication to you under instruction from our clients, S/Shri S.G. Vombatkere and Bezwada Wilson (Petitioners in one of the Writ Petitions, i.e. WP (C) No. 29/2013) in the 'Aadhaar' matter Justice (retd.) K.S. Puttuswamy v. UOI & Ors., WP(C) No. 494/2012 before the Hon'ble Supreme Court of India.

This is to bring to your kind notice that the Hon'ble Supreme Court of India after hearing the Learned Attorney General of India and the Petitioners, has passed an Interim Order dated 11.8.2015, wherein the following directions have been passed:-

*'Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or UIDA proceed in the following manner:-*

1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar Card;
2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;
4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

Ordered accordingly.'

[Emphasis supplied by us]

[A copy of the Order dated 11.8.2015 passed in WP (C) No. 494/2012 by the Supreme Court of India is enclosed for your ready reference].

The Election Commission of India, for your information has issued Instructions dated 13.8.2015 to all Chief Electoral Officers, implementing the Interim Order passed by the Hon'ble supreme Court of India in the following terms:-

'3. Accordingly in the light of the above Order, the Commission has directed the following –

- (i) All further activities relating to collection/feeding/seeding of Aadhaar Number being undertaken currently under NERPAP shall be

suspended with immediate effect till further directions from the Commission. In other words, henceforth no more collection of Aadhaar Numbers from electors or feeding/seeding of collected Aadhaar data shall be done by any election authority or official connected with the NERPAP.

- (ii) No Aadhaar data shall be collected from any other agency/data hub/organization of Central Government/State Government, nor should the data collected so far be used for any authentication/other purpose.
- (iii) All DEOs, EROs, AEROs, BLOs and other field level electoral machinery shall be sensitized of the Commission's above instructions for strict compliance. Any violations of these instructions will be viewed seriously by the Commission and attract disciplinary action.
- (iv) Proper publicity shall be given to disseminate the Commission's above Instructions. A Press Note shall be issued by CEOs and DEOs clarifying the position in the wake of the Supreme Court's Order referred to above for information and compliance by all concerned.
- (v) All publicity being done in respect of NERPAP activities relating to collection of Aadhaar Number shall be stopped immediately and all publicity material pertaining thereto available on CEO's website shall be withdrawn. Information about suspension of this activity should be displayed on the website and notice boards in the offices of DEOs and EROs/AEROs.

A copy of the Instructions dated 13.8.2015 issued by the Election Commission of India is enclosed for your ready reference.

In view of the above directions passed by the Hon'ble Supreme Court of India, please forthwith suspend/cease any activity relating to collection/authentication/seeding/using the information obtained under the Aadhaar/UIDAI Scheme. Please forthwith make suitable modification/alterations to your database software, if any, so as to ensure that the requirement of Aadhaar card/ number is not mandatory for any purpose under your authority or with respect to any programmes under your jurisdiction, whatsoever. Kindly ensure that there is no discrimination on the basis of non-production of, or non-enrolment for the Aadhaar card/number by any person under your authority.

Kindly comply with the aforesaid directions of the Hon'ble Supreme Court of India give wide publicity on your websites or appropriate platform.

Yours faithfully,  
For M/S. K.J. JOHN & CO.

(PRATAP VENUGOPAL)  
Encl: as above

By e-mail / Speed Post

ELECTION COMMISSION OF INDIA  
NIRVACHAN SADAN, ASHIKA ROAD, NEW DELHI – 110001

No. 23/1/2015(NERPAP)-ERS

Dated 13<sup>th</sup> August, 2015

To,  
The Chief Electoral Officers of  
All States and Union Territories

Subject:- National Electoral Rolls Purification & Authentication Programme (NERPAP)  
– Collection of Aadhaar Number from the applicants – regarding.

Sir/Madam,

I am directed to refer to the Commission's letter No. 23/1/2015-ERS dated 27<sup>th</sup> February, 2015 issuing detailed guidelines for National Electoral Rolls Purification & Authentication Programme (NERPAP) activities launched on 3<sup>rd</sup> March, 2015. One of the major objectives of NERPAP is linking and authentication of EPIC data of electors with Aadhaar data of UIDAI. For this purpose currently Aadhaar Number of electors is being collected through various modes throughout the country.

2. In this connection, I am to state that the Hon'ble Supreme Court of India, while considering Writ Petition (Civil) No. 494 of 2012 (Justice K. S. Puttaswamy (Retd.) & Another v/s Union of India & Others) has, by way of an interim measure, passed, interalia, the following Order on 11<sup>th</sup> August, 2015 –

“.....2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;

3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme.

4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation”

3. Accordingly, in the light of the above Order, the Commission has directed the following-

- (i) All further activities relating to collection/feeding/seeding of Aadhaar Number being undertaken currently under NERPAP shall be suspended with immediate effect till further directions from the Commission. In other words, henceforth no more collection of Aadhaar Numbers from electors or feeding/seeding of collected Aadhaar data shall be done by any election authority or official connected with the NERPAP.
- (ii) No Aadhaar data shall be collected from any other agency/data hub/organisation of Central Government/State Government, nor should the data collected so far be used for any authentication/other purpose.
- (iii) So far maintenance of data security and confidentiality of Aadhaar data, already collected from electors or from some other Government Departments/Agencies is concerned, the Commission's instructions contained in letter No. 23/1/2015(NERPAP)-ERS dated 22<sup>nd</sup> May, 2015 shall be adhered to scrupulously by all election officials involved in the activity.
- (iv) All DEOs, EROs, AEROs, BLOs and other field level electoral machinery shall be sensitized of the Commission's above instructions for strict compliance. Any violations of these instructions will be viewed seriously by the Commission and attract disciplinary action.

(v) Proper publicity shall be given to disseminate the Commission's above instructions. A press Note shall be issued by CEOs and DEOs clarifying the position in the wake of the Supreme Court's Order, referred to above, for information and compliance by all concerned.

(vi) All publicity being done in respect of NERPAP activities relating to collection of Aadhaar Number shall be stopped immediately and all publicity material pertaining thereto, available on CEO's website shall be withdrawn. Information about suspension of this activity should be displayed on the website and notice boards in the offices of DEO's and ERO's/AERO's.

(vii) Other activities of NERPAP for purification except collection/feeding/seeding of Aadhaar Number, will continue and be carried out during the period of Continuous updation and special Summary Revision, 2016.

4. These instructions shall be brought to the notice of all concerned. All concerned will ensure strict compliance of order of Hon'ble SC as stated above. (A copy annexed)

5. Kindly acknowledge receipt of the letter and ensure strict compliance.

Yours faithfully,

Sd./-

(NARENDRA N BUTOLIA)

SECRETARY

ITEM NO.5+56

Court No.5

SECTION PIL

Annexure-R/3  
43

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 494 OF 2012

JUSTICE K.S.PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay)

WITH T.P.(C) NO. 47-48 of 2013

(With appln(s) for stay and office report)

(Appln. for deletion of the name of petitioner no. 1)

T.P.(C) NO. 476 of 2013

(With appln(s) for stay and office report)

W.P.(C) No. 829 of 2013

(With appln(s) for interim relief and office report)

Date: 23/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Anil B. Divan, Sr. Adv.  
Mr. Ankit Goel, Adv.  
Mr. Ranvir Singh, Adv.  
Mr. Sanjay Yadav, Adv.  
Mr. Anish Kumar Gupta, Adv.  
Ms. Deepshikha Bharati, Adv.  
Mr. S.S. Shamshery, Adv.  
Mr. Rajeev Kr. Singh, Adv.  
Mr. Nachiketa Joshi, Adv.

Mr. P.R. Kovilan Poongkuntran, Adv.  
Mrs. Geetha Kovilan, Adv.

Mr. Shyam Divan, Sr. Adv.  
Mr. Pratap Venugopal, Adv.  
Ms. Meenakshi Chauhan, Adv.  
Mr. Varun Singh, Adv.  
Mr. Gaurav Nair, Adv.  
M/s. K.J. John & Co.

for

For Respondent(s)

Mr. Mohan Parasaran, SG  
Mr. L. Nageshwar Rao, ASG  
Mr. Farrukh Rasheed, Adv.  
Mr. Alok Mishra, Adv.  
Mr. D.S. Mahra, Adv.

UPON hearing counsel the Court made the following  
O R D E R.

Issue notice in W.P.(C) No. 829/2013.

Application for deletion of the name of  
petitioner no. 1 in T.P.(C) Nos. 47 of 2013 is  
allowed.

T.P.(C)nos. 47-48. of 2013 and T.P.(C) No.  
476 of 2013 are allowed in terms of the signed  
order.

All the matters require to be heard  
finally. List all matters for final hearing after  
the Constitution Bench is over.

In the meanwhile, no person should suffer  
for not getting the Adhaar card inspite of the fact  
that some authority had issued a circular making it  
mandatory and when any person applies to get the  
Adhaar Card voluntarily, it may be checked whether  
that person is entitled for it under the law and it  
should not be given to any illegal immigrant.

(DEEPAK MANSUKHANI)  
Court Master

(M.S. NEGI)  
Court Master

(Signed order is placed on the file)

6 True copy

ITEM NO. 301

COURT NO. 6

45  
Annexure - R/4  
SECTION PIL

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 494/2012

JUSTICE K.S. PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for stay, impleadment, clarification/modification of Court's order, intervention, directions, permission to file additional documents, permission to file additional additional affidavit and office report)  
(For Final Disposal)

WITH

T.C. (C) No. 151/2013

(With appln.(s) for impleadment as party respondent and appln.(s) for modification of court's order)

T.C. (C) No. 152/2013

W.P. (C) No. 829/2013

(With appln.(s) for impleadment and impleadment/directions and interim relief and office report)

W.P. (C) No. 833/2013

(With appln.(s) for directions and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for permission to file additional documents and Office Report)

W.P. (C) No. 932/2013

(With appln.(s) for directions and appln.(s) for interim directions and Office Report)

T.P. (C) No. 312/2014

(With Office Report)

T.P. (C) No. 313/2014

(With Office Report)

W.P. (C) No. 37/2015

(With appln.(s) for amendment of memo of parties and interim stay and permission to file additional documents and office report)

Signature Not Verified  
Digitally signed by  
Deepak Kulkarni  
Date: 2015.03.16  
11:43:21  
Reason:

Date : 16/03/2015 These matters were called on for hearing today.



-2-

## CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR  
 HON'BLE MR. JUSTICE S.A. BOBDE  
 HON'BLE MR. JUSTICE C. NAGAPPAN

## For Petitioner(s)

Mr. Gopal Subramaniam, Sr. Adv.  
 Ms. Aishwarya Bhati, Adv.  
 Mr. Talha Abdul Rehman, Adv.  
 Ms. Neha Meena, Adv.  
 Ms. Anusha Ramesh, Adv.  
 Ms. Sadhana Saxena, Adv.

Mr. Shyam Divan, Sr. Adv.  
 Mr. Pratap Venugopal, Adv.  
 Ms. Surekha Raman, Adv.  
 Ms. Supriya Jain, Adv.  
 Mr. Gaurav Nair, Adv.  
 Ms. Niharika, Adv.

For M/s. K.J. John & Co.

Ms. Meenakshi Arora, Sr. Adv.  
 Mr. Rahul Narayan, Adv.  
 Mr. Mohit Singh, Adv.

Mr. Abhishek Atrey, Adv.

Ms. V. Mohana, Adv.  
 Mr. B. Raghunath, Adv.  
 Mr. Vijay Kumar, Adv.

Ms. Geeta Kovilam, Adv.  
 Mr. P.V. Kovilam, Adv.

Mr. Ankit Goel, Adv.  
 Mr. Sanjay Yadav, Adv.

for Mr. Anish Kumar Gupta, Adv.

Mr. Amit Meharia, Adv.  
 Mr. Tannishtha Singh, Adv.

For M/s. Meharia & Company

## For Respondent(s)

UOI

Mr. Ranjit Kumar, SG  
 Mr. Maninder Singh, ASG  
 Mr. Ajay Sharma, Adv.  
 Ms. Binu Tamta, Adv.  
 Ms. Meenakshi Grover, Adv.  
 Mr. Zoheb Hossain, Adv.

Mr. B.K. Prasad, Adv.  
Mr. D.S. Mahra, Adv.

Mr. Prasanna S., Adv.

Mr. Gopal Singh, Adv.  
Mr. Rituraj Biswas, Adv.  
Ms. Rashmi Srivastava, Adv.  
Ms. Shubra Rai, Adv.

Mr. Jayant Bhushan, Sr. Adv.  
Mr. Kuldeep S. Parihar, Adv.  
Mr. H.S. Parihar, Adv.

State of Uttarakhand Mr. Pankaj Bhatia, Adv.  
Mr. Dushyant Kumar, Adv.  
Mr. Vivek Choudhary, Adv.  
Mr. Jatinder Kumar Bhatia, Adv.  
  
Mr. Sumit Atrey, Adv.  
Ms. Priyadarshi Banerjee, Adv.  
Mr. Ankur Saigal, Adv.  
Mr. E.C. Agrawala, Adv.

State of Telangana Mr. S. Udaya Kumar Sagar, Adv.  
Mr. Krishna Kumar Singh, Adv.

State of Gujarat Ms. Hemantika Wahi, Adv.  
Ms. Jesal Wahi, Adv.  
Ms. Puja Singh, Adv.

State of Jharkhand Mr. Tapesk Kumar Singh, Adv.  
Mr. Kumar Anurag Singh, Adv.  
Mr. Mohd. Waquas, Adv.

Govt. of Puducherry Mr. V.G. Pragasan, Adv.  
Mr. S.J. Aristotle, Adv.  
Mr. Prabu Ramasubramanian, Adv.

ELI Mr. Mohit Ram, Adv.  
Ms. Monisha Handa, Adv.  
Mr. Neeraj Kumar, Adv.

State of Assam Mr. Riku Sarma, Adv.  
Mr. Navnit Kumar, Adv.  
M/s. Corporate Law Group

State of WB Mr. Soumitra G. Chaudhuri, Adv.  
Mr. Anip Sachthey, Adv.

State of Nagaland	Ms. K. Enatoli Sema, Adv. Mr. Amit Kumar Singh, Adv. Mr. Balaji Srinivasan, Adv.
State of HP	Mr. J.S. Attri, Sr. Adv. Mr. Varinder Kumar Sharma, Adv. Mr. Sumeet Prakash, Adv.
State of Maharashtra	Ms. Asha Gopalan Nair, Adv. Mr. A.P. Mayee, Adv. Mr. A. Selvin Raja, Adv.
A&N Administration	Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, Adv.
State of Sikkim	Ms. Aruna Mathur, Adv. Mr. Yusuf Khan, Adv. Mr. K. Vijay Kumar, Adv. M/s Arputham Aruna & Co., Adv.
State of Goa	Mr. Ninad Laud, Adv. Mr. Karan Mathur, Adv. Mr. Jayant Mohan, Adv.
State of Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Z.H. Issac Haiding, Adv. Mr. Ashok Kumar Singh, Adv.
State of Rajasthan	Mr. Shiv Mangal Sharma, Adv. Mr. Shrey Kapoor, Adv. Ms. Ruchi Kohli, Adv.
State of HP	Mr. Suryanarayana Singh, AAG Ms. Pragati Neekhara, Adv.
State of Punjab	Mr. Sanchar Anand, Adv. Mr. Apoorv Singhal, Adv.
State of Kerala	Mr. Jogya Scaria, Adv. Mr. R.S. Bed, Adv.
State of Mizoram	Mr. K.N. Madhusoodhanam, Adv. Mr. T.G.N. Nair, Adv.
NCT of Delhi	Mr. J.M. Kalia, Adv.
State of Haryana	Mr. B.K. Satija, AAG
IA 5of 2014 in	Mr. Sumit Attri, Adv.

-5-

	Mr. Gopal Sankaranarayanan, Adv.
	Ms. Savita Singh, Adv.
	Mr. Prashant, Adv.
State of TN	Mr. B. Balaji, Adv.
	Mr. R. Rakesh Sharma, Adv.
	Ms. R. Shase, Adv.
State of Bihar	Mr. Abhinav Mukerji, Adv.
UT Chandigarh	Ms. Vimla Sinha, Adv.
	Mr. Gopal Singh, Adv.
	Mr. Amit Sharma, Adv.
	Mr. Dipesh Sinha, Adv.
Beghar Foundation	Mr. Saikrishna Rajagopal, Adv.
	Mr. Juhen George, Adv.
	Mr. Arjun Ranganathan, Adv.
	Mr. Nikhil Nayyar, Adv.
	Mr. Kamal Mohan Gupta, Adv.
	Ms. C. K. Sucharita, Adv.
	Mr. Mishra Saurabh, Adv.
	Mr. Garvesh Kabra, Adv.
	Mr. T. G. Narayanan Nair, Adv.
	Ms. Anitha Shenoy, Adv.

UPON hearing the counsel the Court made the following  
O R D E R.

The matters require considerable time for hearing. Therefore, we direct the matters to be listed for hearing in the second week of July, 2015 after obtaining appropriate orders from Hon'ble the Chief Justice of India.

In the meanwhile, it is brought to our notice that in certain quarters, Aadhar identification is being insisted upon by the various authorities, we do not propose to go into the specific instances.

ITEM NO.57

COURT NO.4

SECTION IIA

51  
Annexure - R/5

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).2524/2014

(From the judgement and order dated 26/02/2014 in CRLWP No.10/2014,  
of The HIGH COURT OF BOMBAY AT PANAJI)

UNIQUE IDENTIFICATION AUTH.OF INDIA &ANR  
VERSUS

Petitioner(s)

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

(With appln. for exemption from filing c/c of the impugned Judgment  
and office report)

Date: 24/03/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE. DR. JUSTICE B.S. CHAUHAN  
HON'BLE. MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. Mohan Parasaran, SG  
Mr. Rakesh Khanna, ASG  
Mr. Zohar Mousain, Adv.  
Mr. Alok Mishra, Adv.  
Mr. D.S. Mahra, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Issue notice.

In addition to normal mode of service, dasti  
service, is permitted.

Operation of the impugned order shall remain  
stayed.

In the meanwhile, the present petitioner is  
restrained from transferring any biometric information  
of any person who has been allotted the Aadhaar number  
to any other agency without his consent in writing.

..2/-

:2:

More so, no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled. All the authorities are directed to modify their forms/circulars/likes so as to not compulsorily require the Aadhaar number in order to meet the requirement of the interim order passed by this Court forthwith.

Tag and list the matter with main matter i.e.

WP(C) No.494/2012.

[Usha Bhardwaj]  
A.R:-cum-P.S.

[M.S. Negi]  
Assistant Registrar

6 True copy?

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

I.A.NO. OF 2015

IN

WRIT PETITION (CIVIL) NO.494/2012

Justice K.S. Puttaswamy (Retd.) Petitioner

VS.

UOI & Ors.

Respondent

AND

IN THE MATTER OF :

Central Board of Direct Taxes.

Applicant/Respondent.

**APPLICATION FOR IMPLEADMENT**

**PAPER BOOK**

**(Kindly see inside. )**

Advocate for the Applicant/Respondent: Mrs.Anil Katiya

Index.

1. Application for impleadment  
with affidavit.

1-10



IN THE SUPREME COURT OF INDIA  
(CIVIL ORIGINAL JURISDICTION)

I.A. No. /2015

IN

WRIT PETITION (CIVIL) No.494/2012

IN THE MATTER OF:

JUSTICE K.S.PUTTASWAMY(RETD.).....PETITIONER

VERSUS

UNION OF INDIA & ORS. .... RESPONDENTS

AND

IN THE MATTER OF:

CENTRAL BOARD OF DIRECT TAXES,

DEPARTMENT OF REVENUE,

NORTH BLOCK,

NEW DELHI .....APPLICANT/RESPONDENT

APPLICATION FOR IMPLEADMENT

TO

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUDGES OF THE

HON'BLE SUPREME COURT OF INDIA

The Petition of the

Petitioner above named:

MOST RESPECTFULLY SHOWETH :-

1. That the above mentioned petition filed by the petitioner abovementioned challenging the constitutionality and legality of the "Aadhaar Card Scheme" on various counts. Wherein after hearing the parties at length this Hon'ble Court on 11.08.2015 referred the matter to be placed before the Hon'ble Chief Justice Of India for appropriate orders.

2. That the applicant herein submitted that they were not party to the main petition. However this Hon'ble Court has passed interim direction on 11.08.2015 and the functioning of the applicant is being prejudiced/put to hardship in view of that.

3. That at the time of passing said order this Hon'ble Court passed following interim direction that till the matter is finally decided by the larger Bench if the Union Of India or the UIDAI proceed in the following manner:

1. The Union Of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card.

2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen.

3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme.

4. The information about an individual obtained by the Unique Identification Authority Of India while issuing an Aadhar card shall not be used for any other purpose save as above, except as may be directed by the Court for purpose of criminal investigation.

4. That on 20<sup>th</sup> August 2015, applicant herein has received a letter dated 17<sup>th</sup> August 2015 from one K.J. John & Co. Advocate Supreme Court & High Court intimating them that in view of the above directions

passed by this Hon'ble Court to suspend/cease activity related to collection/authentication/sending/using the information obtained under the Aadhaar/UIDAI Scheme and accordingly make suitable modification/alterations to database software, if any.

5. It is submitted that in that circumstances the applicant herein prays before this Hon'ble Court that they shall be impleaded as necessary party. The applicant herein submit that alongwith this they are also filing application for clarification/Modification as presently this Aadhaar Number/ card is being used by the Income Tax Department for following purposes :

(a) Aadhaar number is required to be indicated by persons having Aadhaar for filing Return of Income. Those not having Aadhaar can also file the Return of Income without Aadhaar.

(b) Aadhaar is one of the modes for e-verification of e-filed return. Persons not having Aadhaar have been given a range of other options for e-verification viz. through net banking etc. Besides, manual acknowledgement by filing ITR-V is also available as a valid mode of verification.

(c) Aadhaar number is to be indicated by persons having Aadhaar for filing PAN application.

6. It is submitted that the providing of Aadhaar Card Number for this purpose is, however, not mandatory. However, till the date of impugned interim direction Aadhaar Card was accepted as one of the approved documents for Proof of Identity, Proof of Address and Proof of Date of Birth for making PAN application. Besides Aadhaar, a person had the option to use a number of other documents which were also accepted as proof of identity, address and date of birth.

7. It is further submitted that the Aadhaar number so obtained by the Department on voluntary basis was being seeded in PAN database for de-duplication of PAN. The purpose of this is to ensure uniqueness of PAN in order to avoid issue of two PANs to same person or same PAN to more than one person.

8. In addition to the above, the Department was also considering the use of Aadhaar for the following purposes:

b) Pass such other and further orders as this Hon'ble Court deem fit and proper in the interest of justice and in the facts and circumstances of present case.

Drawn By;

Filed By;

Sadhana Sandhu

ANIL KATIYAR

Advocate

(Advocate for Petitioners)

Filed On;

New Delhi

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

I.A. No. /2015

IN

WRIT PETITION (CIVIL) No.494/2012

IN THE MATTER OF:

JUSTICE K.S.PUTTASWAMY(RETD.).....PETITIONER

VERSUS

UNION OF INDIA & ORS.

..... RESPONDENTS

AND

IN THE MATTER OF:

CENTRAL BOARD OF DIRECT TAXES

AFFIDAVIT

I, Arju Garodia, Under Secretary to the Government of India, Central Board of Direct Taxes, New Delhi, presently at New Delhi do hereby solemnly affirm and state as under:

1. That in my abovementioned official capacity, I am conversant with facts of the case and competent as well as duly authorized to file present affidavit.
2. That I have read and understood the contents of the accompanying Application for Impleadment has been drafted under my instructions, the contents stated therein are true and correct and based on official record.
3. I say that the facts stated therein are true and correct to my knowledge and belief.

DEPONENT

**VERIFICATION: -**

Verified at New Delhi on this        **day** of October, 2015, that the contents stated herein above, in above affidavit are true and correct as per my knowledge and belief and based on the official records made available to me and no part thereof, is incorrect or false and nothing has been concealed therefrom.

DEPONENT